

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 12208 of 2004

Between:

Smt. S. Anasuryamma, W/o Late Veera Swamy,
R/o Gorijavoluguntapalem, Pedanandipadu Mandal, Guntur District.

..... PETITIONER

AND

- 1 The Manager, Sri Venugopala Swamy and Seetharama Swamy Temple, Prattipadu Village and Mandal, Guntur District.
- 2 The Assistant Commissioner of Endowments, Besides Sri Anjaneya Swamy Temple, Naaz Centre, Guntur.
- 3 The Deputy Commissioner of Endowments, Besides Sri Anjaneya Swamy Temple, Naaz Centre, Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction particularly one in the nature of writ of mandamus declaring the action of the respondents in conducting auction on 22-6-2004 for leasing out the dry land situated in survey D.No.17 of Gorijavoluguntapalem, Pedanandipadu Mandal, Guntur District which is in petitioner's occupation and enjoyment, without notice to her as illegal and arbitrary and further declaring that the petitioner is entitled to be continued as an Agricultural tenant of the said land as per Circular No.MI/10728/2004 dated 4-6-2004 of the Commissioner of Endowments

Counsel for the Petitioner: MR.M.PANDURANGA RAO

Counsel for the Respondent No.1: Mrs. N. Indrani, SC for Endowments

Counsel for the Respondent Nos. 2&3: GP FOR ENDOWMENTS

The Court at the admission stage made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the first respondent in conducting public auction of the leasehold rights, in respect of which the petitioner is continuing as a lessee.

2. According to the petitioner, she and her ancestors have been the lessees for the last 50 years in respect of Ac.6.00 cents out of Ac.10.25 cents of dry land situated in D.No.17 of Gorijavoluguntapalem, Pedanandipadu Mandal, Guntur District. It is also stated by the petitioner that originally her husband was continuing as a tenant, after his demise, she is continuing as a tenant in respect of the above said Ac.6.00 cents of land. It is also stated that the petitioner has no other land except the land in question, belonging to the first respondent – Institution. It is stated that the first respondent has increased the rentals of the land per annum from Rs.80/- per acre to Rs.13,800/- per annum for the entire extent of land and she also paid the rental upto 2003-2004. But, however, the respondents have conducted the auction without issuing any notice, evicting the petitioner from the land in question. Therefore, the petitioner has come up with the present writ petition.

3. At the time of hearing, the learned counsel also relied on a circular No.M1/10728/2004, dated 04.06.2004, as per which, direction was given by the Commissioner to the Assistant Commissioners and Deputy Commissioners of Endowment Department to allow the landless poor persons to the extent of the limit prescribed and only with reference to the land beyond the limit they should be evicted or dispossessed. But, however, with reference to the petitioner, it is claimed that the first respondent has conducted the auction with reference to the entire extent

of land. Therefore, the present writ petition.

4. Heard learned counsel for the petitioner and the learned Government Pleader

5. Admittedly, the petitioner and her predecessors are tenants in respect of the land of Ac.6.00 cents out of Ac.10.25 cents of dry land situated in D.No.17 of Gorijavoluguntapalem, Pedanandipadu Mandal, Guntur District, belonging to the first respondent. After the new endowments Act has been enacted though the lease stood cancelled, but certain protection was given to the landless poor persons. It is further clarified by the Circular issued by the Commissioner of Endowments so as to allow the landless poor persons though they were lessees in respect of more land than prescribed under Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), that they should be allowed to the extent of land prescribed under Section 82 of the Act only, but the excess land has to be taken out of their possession which is to be put for public auction either of the lease hold rights or even sale whatever the institution proposes to do.

6. Now the grievance of the petitioner is that the first respondent has conducted the auction with reference to the entire extent of Ac.6.00 cents of land, even though the petitioner does not have any other land except the land in question. Under such circumstances, as per the circular of the Commissioner dated 04.06.2004 she is entitled to be in possession for up to Ac.5.00 of dry land, therefore sought for order of protection.

7. In view of the facts stated, the petitioner is directed to make representation to the second respondent – Assistant Commissioner of Endowments within a period of two weeks from the date of receipt of a copy of this order. On such representation being made by the petitioner, the second respondent is directed to adjudicate upon the issue, and if the petitioner is not having any other land of her own, the second respondent is directed to consider the directions issued by the Commissioner in his Circular dated 04.06.2004 and pass appropriate orders. Till the orders are passed by the second respondent, status quo obtaining as on today shall be maintained with reference to an extent of Ac.5.00 out of Ac.6.00 of land, in which the petitioner was continuing as a tenant. With reference to the excess extent of Ac.1.00 of land, it is open to the first respondent to take decision.

8. The writ petition is accordingly disposed of with the above directions.

16.07.2004

Note: Furnish CC in 2 days

B/o

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To

1 The Manager, Sri Venugopala Swamy and Seetharama Swamy Temple, Prattipadu Village and Mandal, Guntur District.

2 The Assistant Commissioner of Endowments, Besides Sri Anjaneya Swamy Temple, Naaz Centre, Guntur.

3 The Deputy Commissioner of Endowments, Besides Sri Anjaneya Swamy Temple, Naaz Centre, Guntur.

4 Two CCs to G.P. for Endowments, High Court of A.P. Buildings, Hyderabad(OUT)

5 Two CD Copies